

REMARKS

The applicants have carefully studied the outstanding Office Action. The present amendment is intended to be fully responsive to all points of rejection raised by the Examiner, and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Claim amendments

Claim 1 has been amended by the addition of recitations to provide antecedent basis for elements of later claims.

Claim 12 has been amended in a similar manner.

The relevant dependent claims have been amended to overcome the Examiner's objections because of informalities, and the Examiner's rejections regarding lack of clarity, mostly because of lack of correct antecedent basis.

Claim 21 has been amended to correct its dependency.

Claim objections

Claims 2-11 and 13-22 are objected to because of the use of the language construction "... claim # and wherein" These claims have been amended by use of a comma and without the word "and".

The second recitation of the word "said" in line 2 of claim 3 has been deleted.

Claim rejections - 35 USC § 112

Claims 2, 4-9, and 17-18 are rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

Claims 2, 4-7 and 15-16 have been rejected for having insufficient antecedent basis for various limitations recited in each claim.

The applicants have amended the claims accordingly, to remove the lack of antecedent basis.

Claims 8-9 and 17-18 have been rejected since it is unclear to what or whom the word "its" in the last line of the claims refers to.

The applicants have amended the claims accordingly, to remove the lack of clarity.

Claim rejections - 35 USC § 102

Claims 1-7, 12-16 and 21 stand rejected under 35 U.S.C 102(a) as being anticipated by Enziger (DE 298 11 374 U1) The Examiner states that "In regard to claims 1 and 12, Enziger discloses an airway adapter (see fig) having a first end section (11) for connecting to an e-tube adapter having an inner bore, said first end section having a passage formed therein, a second end section (12) for connecting to a ventilating tube connector, said second end section being in fluid connection with said first end section, a sampling port (13) intermediate said end section in fluid communication with said first end section and a tubular insert (with regards to claim 1) or a sleeve (with regards to claim 12) (5-9) with an internal bore (interior defined by 7 and 8) which slides axially in said passage."

The applicants respectfully disagree with the Examiner's interpretation of what is shown in Enziger. The applicants submit that the insert shown in the Enziger patent does not slide axially in said passage, as stated by the Examiner (emphasis added). The passage recited in claims 1 and 12 of the present application is formed within the first end section. The insert shown in Enziger slides in a passage which is described as a fourth opening, and disposed in a section opposite to the first end section, and cannot therefore be described as being formed in the first end section. The Examiner has himself described the first end section as being item (11) in the Enziger patent. Indeed, in describing the motion of the piston 5 (the "insert") in the Enziger patent, it is stated on page 6, lines 18-19, that the piston "in Richtung zu der vierten Öffnung hin verschoben...", this "vierten Öffnung" having been defined as being disposed

opposite the first opening 1, as stated on page 6, lines 6-8: "...die eine an der ersten Öffnung 1 **gegenüberliegenden Seite** des zylindrischen Gehäuses 4 vorhandene vierte Öffnung abdeckt." (Emphasis added.) An English equivalent of these two quotations from DE 298 11 374 U1 cited by the Examiner may be found in US 6,516,803, in col. 3, lines 28-30 and 38-39 respectively.

In contrast to the insert described in Enziger, which slides in a fourth end section of the device, amended claim 1 of the present application recites:

"a first end section for connecting to an endotracheal tube adapter said first end section having a passage formed therein;

.....and

a tubular sliding insert having an internal diameter, and being adapted to slide axially in said passage".

Claim 12 has a similar recitation.

The applicants therefore respectfully submit that both claims 1 and 12 are not anticipated by the Enziger patent and are deemed allowable.

Claim rejections - 35 USC § 103

Claims 8-11, 17-20 and 22 stand rejected under 35 U.S.C 103(a) as being unpatentable over Enziger, for the various reasons elucidated in the Office Action. Since claims 8-11 and 22 are dependent on claim 1, and add additional patentable matter, and claim 1 is deemed allowable, the applicants submit that claims 8-11 are also deemed allowable. Since claims 17-20 are dependent on claim 12, and add additional patentable matter, and claim 12 is deemed allowable, the applicants submit that claims 17-20 are also deemed allowable.

Prior art

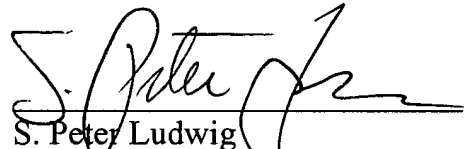
The Examiner has made of record prior art which is not relied upon, but which is considered pertinent to the applicant's disclosure, namely US 6,516,803 to Enziger, 6,026,810 to Baird, 5,636,625 to Miyagi et al., 4,052,990 to Dodgson, 3,461,877 to Morch, WO93/25261 to Roy, and DE 198 38 370 C1 to Enziger.

The applicants have carefully studied all of the above-referenced prior art documents, their observations on the first-mentioned and last-mentioned patents being found hereinabove. To the best of the applicants' understanding thereof, none of this prior art affects the patentability of any of the applicants' claims, either alone or in combination with other prior art.

Conclusion

For all of the reasons set forth above, applicants respectfully submit that all of the claims are believed to be allowable. Reconsideration and prompt allowance of this application are therefore respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. Peter Ludwig", with a long horizontal flourish extending to the right.

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